

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

**UNIVERSITY OF TENNESSEE RESEARCH
FOUNDATION AND SAINT MATTHEW
RESEARCH, LLC,**

Plaintiffs,

v.

MICROSOFT CORPORATION,

Defendant.

Case No. 3:17-cv-00184-HSM-CCS

JURY TRIAL DEMANDED

**DECLARATION OF DANIEL P. HIPSKIND IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANT MICROSOFT CORP.'S MOTION TO DISMISS
PURSUANT TO FED. R. CIV. P. 12(B)(6)**

I, Daniel P. Hipskind, declare as follows:

1. I am an attorney with Berger & Hipskind LLP, counsel for Plaintiffs in the above-captioned case. I have personal knowledge of the facts stated herein, and I could and would competently testify to them if asked to do so as a witness.

2. The Complaint filed against Defendant Microsoft Corporation in connection with the above-captioned case included citations to numerous publicly-available Microsoft technical documents explaining the functionality of the products Plaintiffs accuse of infringement in this case. The documents cited in the Complaint include: *Overview of Network Load Balancing*, WINDOWS SERVER TECHNET ARTICLE, available at: <https://technet.microsoft.com/en-us/library/cc725691>; *SQLCAT's Guides to: BI and Analytics*, MICROSOFT SQL SERVER GUIDE AND REFERENCE (September 2013); Thomas Kejser, John Sirmon, and Denny Lee, *SQL Server 2008 R2: Analysis Services Operations Guide*, MICROSOFT SQL SERVER WHITE PAPER (June 2011); Denny Lee, Kay Unkroth, *Microsoft SQL Server 2008: Scale-Out Querying for Analysis Services with Read-Only Databases*, MICROSOFT SQL SERVER TECHNICAL WHITEPAPER (June 2010); Allan Hirt, *Microsoft SQL Server 2012: How to Cluster SQL Server Analysis Services*, MICROSOFT WHITE PAPER (April 2014); *High Performance Computing on Microsoft Azure for Scientific and Technical Applications*, MICROSOFT WHITEPAPER (2013); *Microsoft SQL Azure Database Documentation*, MICROSOFT AZURE DOCUMENTATION; Mark Scurrrell, *Using Microsoft SQL Azure with On-Premises Data: Migration and Synchronization Strategies and Practices*, TechEd Presentation (2011); *Guidelines for Running HPC Applications on Azure Nodes*, MICROSOFT TECHNET WEBSITE (January 13, 2014); *Deploying Applications to Azure Nodes in a Windows HPC Cluster*, MICROSOFT TECHNET WEBSITE (December 21, 2016); *Understanding Parallel Computing Jobs*, MICROSOFT TECHNET WEBSITE (January 13, 2014); Mark Scurrrell, *Big Compute in the Cloud with High Performance Computing in Azure*, MICROSOFT TECHED PRESENTATION (2014); *Microsoft HPC Pack 2012 - Appendix A: HPC Cluster Networking*, MICROSOFT TECHNET (January 13, 2014); Scott Klein, *SQL Server 2016 Overview on Channel 9*,

MICROSOFT DEVELOPER NETWORK CHANNEL 9 (June 21, 2016), *available at:*
<https://channel9.msdn.com/Blogs/SQL-Server-2016-Training-Kit/SQL-Server-2016-Overview>;
SQL Server 2012 Product Documentation, MICROSOFT TECHNET, *available at:*
[https://technet.microsoft.com/library/bb418433\(v=sql.10\).aspx](https://technet.microsoft.com/library/bb418433(v=sql.10).aspx); *Books Online for SQL: Server 2014*, MICROSOFT DEVELOPER NETWORK (July 10, 2016), *available at:*
[https://msdn.microsoft.com/library/ms130214\(v=sql.120\).aspx](https://msdn.microsoft.com/library/ms130214(v=sql.120).aspx); *Books Online for SQL Server 2012*, MICROSOFT TECHNET, *available at:* [https://technet.microsoft.com/en-us/library/ms130214\(v=sql.110\).aspx](https://technet.microsoft.com/en-us/library/ms130214(v=sql.110).aspx); *SQL Server Technical Documentation*, MICROSOFT HELP DOCUMENTATION ON MICROSOFT DEVELOPER NETWORK (March 24, 2017), *available at:*
<https://docs.microsoft.com/en-us/sql/sql-server/sql-server-technical-documentation>; *What is Azure SQL Data Warehouse*, MICROSOFT AZURE DOCUMENTATION (February 28, 2017), *available at:* <https://docs.microsoft.com/en-us/azure/sql-data-warehouse/sql-data-warehouse-overview-what-is>; *Use Multi-Instance Tasks to Message Passing Interface (MPI) Applications in Batch*, MICROSOFT AZURE DOCUMENTATION (April 3, 2017), *available at:*
<https://docs.microsoft.com/en-us/azure/batch/batch-mpi>; *Microsoft Azure – Azure SQL Database Documentation*, MICROSOFT AZURE DOCUMENTATION, *available at:*
<https://docs.microsoft.com/en-us/azure/sql-database/>; *Microsoft Azure SQL Architecture*, MICROSOFT AZURE TECHNICAL DOCUMENTATION, *available at:* <https://docs.microsoft.com/en-us/>; Scott Klein, *Introduction to Windows Azure SQL Database*, MICROSOFT AZURE SQL RESOURCES – VIDEOS, (February 6, 2013), *available at:* <https://azure.microsoft.com/en-us/resources/videos/introduction-to-sql-database/>; *Microsoft Azure Stack Documentation*, MICROSOFT AZURE DOCUMENTATION, *available at:* <https://docs.microsoft.com/en-us/azure/azure-stack/>; *SQL Server Analysis Services – Physical Architecture*, MICROSOFT SQL SERVER DOCUMENTATION (March 14, 2017), *available at:* <https://docs.microsoft.com/en-us/sql/analysis-services/data-mining/physical-architecture-analysis-services-data-mining>; *Microsoft T-SQL Data Types: Binary and Varbinary*, MICROSOFT SQL DOCUMENTATION (March

14, 2017), *available at*: <https://docs.microsoft.com/en-us/sql/t-sql/data-types/binary-and-varbinary-transact-sql>; T.K. Ranga Rengarajan, *SQL Server 2016 Public Preview Coming This Summer*, SQL SERVER BLOG (May 4, 2015), *available at*: <https://blogs.technet.microsoft.com/dataplatforminsider>; Julie Strauss, *Developing and Managing A BI Semantic Model in Microsoft SQL Server 2012*, MICROSOFT TECHED 2012 PRESENTATION (June 8, 2012); Aaron Lower, *Exploring SQL Server 2012 Analysis Services Tabular Modeling*, MICROSOFT MSDN CHANNEL 9 PRESENTATION at 17:04 (March 7, 2012); Thomas Kejser and Denny Lee, MICROSOFT SQL SERVER ANALYSIS SERVICES MULTIDIMENSIONAL PERFORMANCE AND OPERATIONS GUIDE (May 2012).

3. Attached hereto as Exhibit A is a true and correct copy of the Microsoft document, *Overview of Network Load Balancing*, WINDOWS SERVER TECHNET ARTICLE, *available at*: <https://technet.microsoft.com/en-us/library/cc725691>.

4. Attached hereto as Exhibit B is a true and correct copy of the Microsoft document, Julie Strauss, *Developing and Managing A BI Semantic Model in Microsoft SQL Server 2012*, MICROSOFT TECHED 2012 PRESENTATION (June 8, 2012).

5. Attached hereto as Exhibit C is a true and correct copy of the Microsoft document, Mark Scurrall, *Big Compute in the Cloud with High Performance Computing in Azure*, MICROSOFT TECHED PRESENTATION (2014).

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 21st day of September 2017, at Los Angeles, California.

/s/ Daniel P. Hipkind
Daniel P. Hipkind

